

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 4/8/2014	(3) CONTACT/PHONE Kerry Brown, Planner/ 805-781-5713	
(4) SUBJECT Hearing to consider an appeal by MWF Properties LLC and McDonald's USA LLC of the Planning Commission's approval of: 1) a request for a Minor Use Permit to allow a change of use from an office (former Bank of America) to a restaurant, at 1076 Los Osos Valley Road, in the community of Los Osos, and 2) adoption of the Mitigated Negative Declaration prepared for this project pursuant to the California Environmental Quality Act. District 2.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt resolution denying the appeal and affirming the decision of the Planning Commission, adopting the Mitigated Negative Declaration for the project in accordance with the California Environmental Quality Act, and conditionally approving the request by MWF Properties LLC and McDonald's USA LLC for a Minor Use Permit to establish a McDonald's restaurant at the Vons Shopping Center in Los Osos.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>120 Minutes</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: <u> </u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 2 -			

County of San Luis Obispo



TO:

FROM: Planning and Building / Kerry Brown, Planner/ 805-781-5713

DATE: 4/8/2014

SUBJECT: Hearing to consider an appeal by MWF Properties, LLC and McDonald's USA, LLC of the Planning Commission's approval of: 1) a request for a Minor Use Permit to allow a change of use from an office (former Bank of America) to a restaurant, at 1076 Los Osos Valley Road, in the community of Los Osos, and 2) adoption of the Mitigated Negative Declaration prepared for this project pursuant to the California Environmental Quality Act. District 2.

RECOMMENDATION

It is recommended that the Board adopt resolution denying the appeal and affirming the decision of the Planning Commission, adopting the Mitigated Negative Declaration for the project in accordance with the California Environmental Quality Act, and conditionally approving the request by MWF Properties LLC and McDonald's USA LLC for a Minor Use Permit to establish a McDonald's restaurant at the Vons Shopping Center in Los Osos.

DISCUSSION

On February 6, 2014, the Planning Commission approved Minor Use Permit/Coastal Development Permit DRC2012-00099 by MWF Properties, LLC and McDonald's USA, LLC to allow a change in use from an office to a restaurant in an existing building at the Vons Shopping Center in Los Osos.

The existing building was built around 1960. The building has been occupied by Security Pacific Bank and later Bank of America. The building has been vacant for over eight years. The proposed project is to allow a change of use from an office to a restaurant in an existing building of 3,978 square feet (3,078 square feet to restaurant and 900 square feet remaining office space). The proposed McDonald's will look similar to the McDonald's in Morro Bay, employing a new modern design. The restaurant is conditioned to be open from 5:00 am to 12:00 am Monday through Thursday and 5:00 am to 1:00 am Friday through Sunday.

Due to community interest and opposition, the Planning Director elevated this Minor Use Permit to the Planning Commission per Section 23.02.033b.2.(iii) of the Coastal Zone Land Use Ordinance. The Planning Commission approved the project, but removed the drive-through component of the project and all associated signage.

The proposed project is consistent with all applicable Coastal Zone Land Use Ordinance (CZLUO) standards and Coastal Plan policies. Please refer to the February 6, 2014 Planning Commission staff report (Attachment 4) for more detailed project analysis.

Appeal Issue

On February 19, 2014, MWF Properties LLC and McDonald's USA LLC filed appeals of the Planning Commission's decision. The applicant and property owner are appealing condition of approval 1c. Condition 1c states no drive-through is allowed.

Staff Response: *The applicant proposed a drive-through for the new restaurant, using the existing drive-through at the site that was used by a bank that closed approximately eight years ago. The Planning Commission listened to testimony from community members, reviewed the project analysis in the staff report and the Initial Study and determined that the drive-through component could impact the circulation of the shopping center. The adequacy of the traffic study was questioned by Commissioners. Concerns were raised that patrons of the shopping center would become stuck in their parking stalls waiting for the drive-through line to move. Testimony from the public was not supportive of the drive-through. Members of the public and the Planning Commission were concerned that the addition of a fast food restaurant with a drive-through would change the unique character of their town and requested that this use not be allowed, until the update of the community plan is finished. In addition, removal of the drive-through component of the project would eliminate the 24 hour aspect of the project (the drive-through was proposed to be open 24 hours a day) and removes a significant amount of directional lighted signage. Staff has included revised findings supporting the removal of the drive-through, consistent with the Planning Commission's decision.*

Other Issue: Parking

The Planning Commission approval included re-striping two parking areas in the rear of the shopping center. Area 1 is located along the access road behind the shops (which runs parallel to Los Osos Valley Road) adjacent to the buildings. Area 2 is in the northeast portion of the shopping center. Since the Planning Commission hearing, staff has discussed these parking areas with CalFire. Laurie Donnelly with CalFire was concerned with area 1 as it would impede access to the fire lane. In the conditions that are proposed to be adopted by your Board today, Staff has modified condition number 11 to remove area 1 from the parking requirement.

OTHER AGENCY INVOLVEMENT

The project was reviewed by the Public Works Department, and referrals were sent to Regional Water Quality Control Board, and Coastal Commission. County Counsel reviewed and approved the Resolution as to form and legal effect. County Counsel also advised the Planning Department to add a condition of approval requiring indemnification (see Attachment 1, condition 20).

FINANCIAL CONSIDERATIONS

The required appeal fee (\$850) was paid by the property owner and the applicant (for a total of \$1,700). The total cost of processing this appeal is approximately \$3,500; the additional cost to process the appeal comes from the Department's General Fund support.

RESULTS

Denying the appeal and upholding the Planning Commission's decision would result in the conditional approval of a Minor Use Permit to change the use of an existing office building to a restaurant without a drive-through at this location.

ATTACHMENTS

1. Attachment 1 - Board Resolution
2. Attachment 2 - Appeal forms
3. Attachment 3 - Planning Commission minutes (draft)
4. Attachment 4 - Planning Commission staff report (February 6, 2014)
5. Attachment 5 - Correspondence